

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

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**Case: BA2006032**

Variance

Hearing Date:

May 10, 2006 (Continued from April 12, 2006)

Agenda Item:

9

Supervisory District:

3

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**Applicant:**

Emile Schmid

**Property Owner:**

Tom G. Frederick

**Request:**

**Variances to permit:**

- 1) A proposed hillside disturbance of 21.1% where 15% is the maximum hillside disturbance allowed; and
- 2) A proposed driveway to be built on 100% fill material where 33% fill material is the maximum allowed in the Rural-43 zoning district.

**These variances are requested from the following Zoning Ordinance Section(s):**

- 1) Section 1201, Article 1201.6.1.1
- 2) Section 1201, Article 1201.6.3.2

**Site Location:**

2616 Lazy G Ranch Road – 27<sup>th</sup> Avenue and Lazy G Ranch Road (New River area)

**Site Size:**

164,035 square feet (3.8 acres)

**Existing Zoning:**

Rural-43

**Current Use:**

Residential

**Citizen**

**Support/Opposition:**

None known

## Staff

**Recommendation:** Approve with stipulations

### Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43  
North: Rural-43  
South: Rural-43  
East: Rural-43  
West: Rural-43

### Existing On-Site and Surrounding Land Use:

2. On-site: Single-family residence under construction  
North: Single-family residence  
South: Lazy G Ranch Road/ single-family residence  
East: Single-family residence  
West: 27<sup>th</sup> Avenue/vacant

### Background:

3. **July 30, 2002:** A road split created parcel **202-10-996** from parcel 202-10-001J.
4. **June 10, 2003:** Parcel **202-10-996** was split to create three new parcels; 996A, 996B, and 996C.
5. **October 1, 2003:** Parcel **202-10-996C** was split to create five new parcels; 996D, 996E, 996F, 996G, and 996H.
6. **October 1, 2003:** Parcels 202-10-996D, 996E, 996F, 996G, and 996H were re-split and combined to create five new parcels; 996J, 996K, 996L, 996M, and **996N** (subject site).
7. **March 3, 2005:** The applicant took title to the subject property via a Warranty Deed recorded under docket number **050267458**.
8. **September 6, 2005:** Building permits **B200505285** (single family residence), **B200505286** (pool and spa), **B200505287** (detached garage), **B200505288** (pool barrier), and **B200511590** (2,500 gallon underground water storage tank) were issued for the subject parcel.
9. **March 8, 2006:** The applicant submitted this variance request.
10. **April 12, 2006:** This case was forwarded to the May 10, 2006 hearing date due to a lack of quorum.

## Findings:

11. **Maricopa County Department of Transportation:** No response at the time this report was written.
12. **Flood Control District:** No response at the time this report was written.
13. **Drainage Review:** Noted that the raising of the driveway and the addition of culverts will have to be reviewed as a required modification to the approved building plans for the project. Any additional review and approval will be completed at that time.
14. **Environmental Services Department:** No response at the time this report was written.

## Site Analysis:

15. The subject property is located approximately 1,750 feet south of New River Road and fronts on 27<sup>th</sup> Avenue. This irregularly shaped property is approximately 3.8 acres with a total frontage of 312 feet on 27<sup>th</sup> Avenue, takes access from Lazy G Ranch Road (formerly Devil Springs Road), and has an east/west lot orientation. The site is located in the northeastern portion of New River and is zoned Rural-43. In addition to the home under construction on the subject site, some of the scattered homes were built in the 1990s with some more recent homes built in the general area. The surrounding area is a mix of manufactured and stick built homes on large rural lots. There are very few standard sized lots in the general area which has developed through the lot splitting process.
16. Currently, the applicant has an approximately 7,160 square foot, single-family residence, an inground pool, and a 3,000 detached accessory structure (RV garage) under construction on the subject site. The RV garage has been built about four feet lower than the residence and to the southeast. The pool and pool barrier are under construction immediately to the rear of the house. There is a large on-site wash that crosses from the southeast below the house to the northwestern boundary. The highest point on the subject site is in the northeastern corner. More than 56% of the site is considered hillside and subject to significant topographical hardships. The eastern portion of the site is dedicated to the house, the pool, and the RV garage with the remainder of the site landscaped with native vegetation, trees and groundcover. There is a semi-circular graded driveway which takes access from Lazy G Ranch Road. There is a septic tank and underground water storage tank in the southeast corner of the site. An existing well is included in the parcel at the far eastern side of the site. Almost ½ of the subject site is undeveloped and the owner has stated that he plans to back fill and revegetate many of the disturbed areas with native landscaping.
17. Access to the subject site is from New River Road to the north, a two lane major collector that provides access to the area from Carefree Highway to the south or I-17 to the west. In this area, New River Road is paved, more than 24 feet wide for most of its

length, and has a dedicated 80 foot right-of-way. The subject site is located approximately 1,750 feet south on 27<sup>th</sup> Avenue, which is a 14 to 18 foot paved roadway that runs along the western boundary of the subject site.

18. The following tables are included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

<b>Standard</b>	<b>Rural-43 Zoning District</b>	<b>Proposed Standard</b>
Front Yard Setback	40-feet	46.8-feet
Rear Yard Setback	40-feet	88.9-feet
Side Yard Setback	30-feet	30-feet
Street Side Setback	20-feet	270.7-feet
Maximum Height	30-feet/2 stories	24-feet/1 story
Minimum Lot Area	43,560-sq. ft.	164,035-sq. ft.
Minimum Lot Width	145-feet	306-feet
Lot Coverage	15%	6.1%

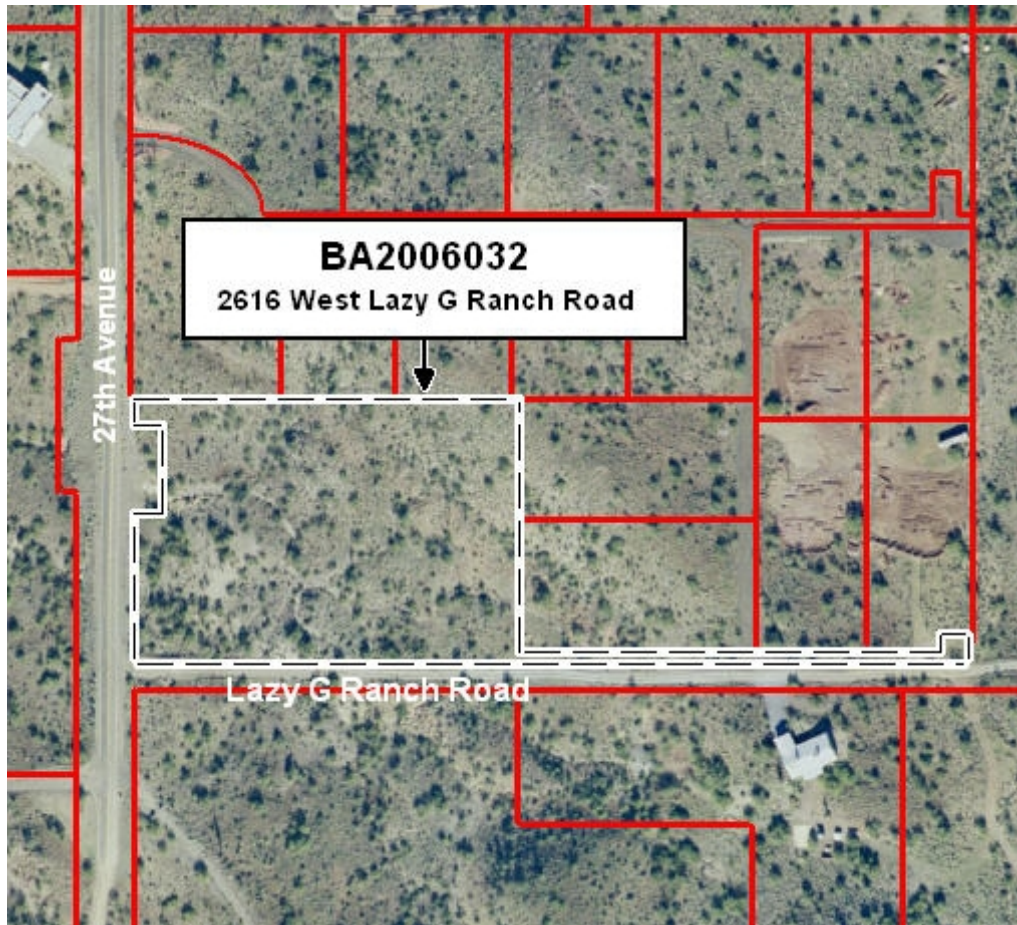
\*Standards indicated in **bold** do not meet minimum base zoning standards.

<b>Hillside Table</b>		<b>Approved</b>	<b>Proposed</b>
A.	Gross Area of Lot	164,035-sq. ft.	164,035-sq. ft.
B.	Area of Lot that is Hillside	91,849-sq. ft.	91,849-sq. ft.
C.	Area of Hillside on Lot that has been Previously Disturbed	0-sq. ft.	0-sq. ft.
D.	Area of Hillside on Lot that is Proposed to be Disturbed	16,479-sq. ft.	22,094-sq. ft.
E.	Area of Hillside in Seven Foot Band Around Building Perimeters	0-sq. ft.	0-sq. ft.
F.	Area of Hillside on Lot that is Disturbed for Septic Tanks and Leach Fields	2,754-sq. ft.	2,675-sq. ft.
G.	Net Hillside Area Disturbed (C + D - E - F)	13,725-sq. ft.	19,419-sq. ft.
H.	Percent of Hillside Disturbed (G / B)	<b>14.9%</b>	<b>21.1%</b>

## Land Use Analysis:

19. The subject site is located in New River in a fairly remote area that is slowly transitioning from sparsely settled rural homes with equestrian uses, to an area of large-lot, suburban residential character. The subject property is surrounded by a number of unimproved, recently split parcels that may see larger custom-built homes more commonly found in suburban neighborhoods built on them. The subject property and the immediate area is zoned Rural-43. Much of the residential settlement of this area is the result of lot splitting. Until recently, a few scattered homes have been built and overall the area does not follow a consistent pattern of development.

20. Staff research found no relevant variance cases in the surrounding area.



Aerial view of subject property and surrounding area

### Plan Analysis:

21. This is a request for multiple variances to allow the completion of a single-family residence in the New River area. The requests are to permit a proposed hillside disturbance of 21.1% where 15% is the maximum hillside disturbance allowed; and a proposed driveway to be built on 100% fill material where 33% fill material is the maximum allowed in the Rural-43 zoning district. Typically, these types of requests occur during the plan review process prior to obtaining permits. In this particular case, the applicant and owner became aware of the increased hillside disturbance and relocated driveway during construction after the disturbance had occurred. As submitted, the original plans called for a 14.9% hillside disturbance as the maximum that would occur during the construction process. The approved disturbance amounted to more than 13,000 square feet of hillside disturbance. After the construction had begun the building contractor moved the "exit" drive and raised it to grade to access the site. In addition to the changes to the driveway, the building contractor extended the fill at the front of the house farther to the south of the house increasing the disturbance to 21.1% or more than 19,000 square feet.

22. The first request is for a proposed hillside disturbance of 21.1% where 15% is the maximum allowed. This proposed hillside disturbance includes the house, the pool area, the detached garage, and the driveway. While this appears to be an excessive amount of hillside disturbance for the house, pool, and garage, several factors must be considered when analyzing this request. First, while the subject site is larger than one acre at 3.8 acres and more than meets the all the requirements for the Rural-43 zoning district, the topography on this site is extreme. Second, the site slopes upward from the south edge of the property making locating the residence and RV garage anywhere on the site difficult. The present driveway was placed incorrectly during the early phases of construction, causing increased disturbance elsewhere on the site. The building contractor also increased the size of the building pad beyond the approved size. Third, placing the 7,160 square foot residence and 3,000 square foot garage on the site resulted in a higher hillside disturbance figure than was originally predicted. While building such a large house and RV garage would be prohibitive on a one acre parcel, this parcel more than exceeds the required 43,560 square feet.
23. Staff believes that topography does create significant hardships for building on the subject site. Determining the placement of the house on the site meant dealing with hillside issues both in changing elevation and in the high rock content in the soils which make building difficult. The owner has stated that he plans to preserve the existing on-site vegetation and revegetate those areas that have been disturbed. Staff further believes that if this site had no elevation change that the house, pool, and RV garage would not be out of character for such a large parcel. Staff therefore recommends approval of variance request one.
24. Variance request two is for the driveway to be built on 100% fill material where 1/3 fill material (33%) is the maximum allowed. The initial driveway design crossed the wash from the residence to the bottom of the wash and then up a fairly steep slope to Lazy G Ranch Road to follow the "lay of the land". During the construction of the house, the driveway was moved eastward and constructed of 100% fill material. The applicant is now proposing to add a box culvert, to maintain the reduction in the change of grade, and direct stormwater flows below the driveway towards 27<sup>th</sup> Avenue. These grade changes and the reorientation of the driveway necessitate the use of a fill material and rip-rap. The applicant has constructed the proposed driveway on 100% fill material where typically fill is limited to 1/3 of the cross-sectional width of a driveway. The remainder of the driveway should typically be located on a cut-slope. This is done for safety reasons, as a fill slope is difficult to stabilize and may have some chance of failure due to erosion or seismic events. Fill is required to provide access from Lazy G Ranch Road through the lower wash to the level of the single-family residence. Staff believes that of all the possible locations on the subject site, that the driveway at this chosen location provides the best access from the residence to the roadway with the least disturbance. Staff recommends approval of variance request two.

25. Typically, review of building applications occur prior to construction to ensure adherence to the Maricopa County Zoning Ordinance hillside requirements. In this case, there are plans for the site that showed that there would be less than 15% hillside disturbance for this project. Those plans were approved and the building permits were issued. The owner had to contend with the existing hillside lot configuration which, even though the lot is larger than required, still constrains development. The building contractor did not follow the approved plans but the owner is attempting to rectify the errors made by the contractor. Staff believes there are significant topographic hardships associated with this site that require the requested variances to properly complete construction, and safely develop this site. Staff is recommending approval of these variance requests.

**Recommendation:** (BA2006032)

26. Staff recommends **approval** of these variance requests based on the following:
- The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.
  - There are topographical hardships present on the site that hinder development.
  - The request does not conflict with the intent of the Zoning Ordinance.

Subject to the following stipulations:

- a) General compliance with the site plans entitled "Grading & Drainage Plan" consisting of four (4) sheets dated received March 8, 2006.
  - b) The applicant shall obtain any necessary permits within 120 days of Board approval.
  - c) The applicant shall submit a modified site plan for further review of driveway and culverts and approval by plan review staff.
  - d) The applicant shall ensure that all exposed fill slopes are landscaped with Upper Sonoran vegetation for screening and control of erosion.
27. If the Board finds that a reasonable use of the property can be made without these variances, then these requests should be denied.

mjlw

**Attachments:** Case Map BA2006032  
Zoning Map  
Assessor Map  
Grading and Drainage Plan (4 Pages)  
Application  
Supplemental Questionnaire (3 Pages)  
Photographs (5 pages)